

**IN THE UNITED STATES DISTRICT COURT**  
**FOR THE DISTRICT OF NEW MEXICO**

JOHN W. BAREFOOT; LINDA BAREFOOT;  
HAROLD HAFLEY,

Plaintiffs,

vs.

No. CIV 11-0038 JB/LFG

ONEWEST BANK, FBS; MORTGAGE ELECTRONIC REGISTRATION SYSTEMS, INC.; INDYMAC MORTGAGE SERVICES; MORTGAGEIT, INC.; JOSEPH D. GALLOGLY; KEY MORTGAGE CORPORATION; SMART MONEY; COUNTRYWIDE HOMELOANS C/O BANK OF AMERICA; ELIZABETH MASON; JOHN DOES and JANE DOES, Individuals yet to be determined, if any, also involved in the real estate finance and real estate loan transactions involved in this case; ABC CORPORATION, Corporations, Partnerships, LLCs, entities yet to be determined, if any, also involved in the real estate refinance and real estate loan transactions involved in this case; and XYZ TRUST / TRANCHE SECURITIZATION POOL/HEDGEFUND INVESTMENT CONDUIT and Corporations, Partnerships, LLCs, Putative Promissory Note Beneficiaries and entities yet to be determined, if any, also involved in the securitization of real estate mortgaged backed securities having an interest in the Promissory Notes/loans which are subject to this action,

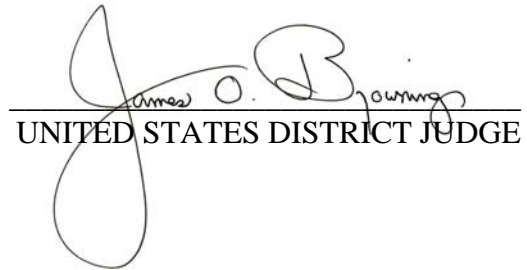
Defendants.

**ORDER OF DISMISSAL WITHOUT PREJUDICE**

**THIS MATTER** comes before the Court sua sponte. On January 11, 2012, the Court entered an Order to Show Cause requiring the Plaintiffs to show cause by no later than January 31, 2012, why the Court should not dismiss their lawsuit, without prejudice, for non-prosecution and lack of service within the time that the law provides. See Doc. 11. The Plaintiffs did not file a response or effect service, and the deadline for responding to the Order to Show Cause has expired.

The Court's inherent power to dismiss a lawsuit sua sponte for want of prosecution is well established. See Link v. Wabash R.R. Co., 370 U.S. 626, 629-30, reh'g denied, 371 U.S. 873 (1962); Shotkin v. Westinghouse Elec. & Mfg. Co., 169 F.2d 825, 826 (10th Cir. 1948); Fed. R. Civ. P. 41(b). The Plaintiffs filed the Verified Complaint for Damages, filed January 12, 2011 (Doc. 1), in this case over a year ago on January 12, 2011. The record fails to reflect that service of process has been made on the Defendants or that the Plaintiffs have prosecuted their case.

**IT IS ORDERED** that the Plaintiffs' Verified Complaint for Damages, filed January 12, 2011 (Doc. 1), and this action, are dismissed, without prejudice.



UNITED STATES DISTRICT JUDGE

*Parties:*

John W. Barefoot  
Albuquerque, New Mexico

*Plaintiff pro se*

Linda Barefoot  
Albuquerque, New Mexico

*Plaintiff pro se*

Harold Hafley  
Corrales, New Mexico

*Plaintiff pro se*